

## **REMARKS**

Claims 70-92 were pending in this application prior to the present amendment. Claims 70-86 are herein canceled. Claims 87-92 are herein amended. Claims 93-147 are herein added. Therefore, claims 87-147 are now pending in this application.

### **Priority Claims**

Applicant does not concede that Gabber predates any priority dates to which the presently pending claims are entitled, and reserves the right to so argue at a later date, with respect to both the current claims and any future claims that Applicant may introduce into this application or a related application. In any event, Applicant respectfully submits that the pending claims are patentably distinct over the cited references.

### **Art-Based Rejections**

Claims 70-92 were rejected under 35 U.S.C. Section 102(e) as being anticipated by Gabber et al. (U.S. Patent No. 5,961,593) (hereinafter “Gabber”). Claims 76, 79, 89 and 92 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Gabber in view of Official Notice. Claims 81-86 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Gabber in view Boies et al. (USPN 6,006,200) (hereinafter “Boies”). Applicant respectfully disagrees with these rejections. However, in order to expedite the claims towards an allowance, Applicant has cancelled claims 70-86 and amended claims 87-92.

Gabber is directed to a “scheme that provides anonymous personalized web browsing.” Gabber, col. 2, lines 52-53. Part of this scheme involves “substitute identifiers” that may be “provided” to various “server site[s].” See *id.* at col. 8, lines 34-35, 41, 44. In particular, Gabber teaches that entry of “user definable character strings” may be “supplied by the user” to “construct[]” “specific substitute identifiers.” See *id.* at col. 8, lines 17-34. Gabber notes that “the same substitute identifiers are used on repeat visits to the server site,” achieving “personalization based upon the consistent use of substitute identifiers.” See *id.* at col. 3, lines 4-6, 10-11. In order to prevent a collection of server sites from creating “dossiers” relating to a particular user, Gabber teaches that the “substitute identifiers” are “site-specific.” See *id.* at col. 6, lines 59-65 (“An important aspect of the above-identified embodiments is the use of site-

specific substitute identifiers to eliminate the need for a user to have to ‘invent’ a new user name and password for each server site which requires the establishment of an account”).

Gabber is largely focused on anonymous web browsing facilitated by a “central proxy system.” *See id.* at Abstract. One passage in Gabber, however, is directed to the facilitation of “electronic payment”: col. 12, line 45-col. 13, line 14. The first paragraph of this portion of the disclosure states as follows:

According to one advantageous embodiment, central proxy system 110a includes functionality necessary to support electronic payment, the users employ electronic payment information to engage in anonymous commerce with the server sites. To facilitate the same, central proxy system 110a may include a data store capable of containing such electronic payment information. Further, substitute identifiers may be constructed, at least in part, using credit/debit card numbers, bank branch or account numbers, postal addresses, telephone numbers, tax identification numbers, social security numbers or the like. Various methods for achieving anonymous commerce are known.

*See id.* at col. 12, lines 45-56 (emphasis added). As can be seen, this paragraph focuses exclusively on the capabilities of the “central proxy system.” Beyond this fact, however, Applicant submits that the teachings of this paragraph are quite vague. This passage merely refers (in passing) to “anonymous commerce,” the “central proxy system ... includ[ing] a data store capable of containing such electronic payment information,” and “substitute identifiers” being “constructed, at least in part, using credit/debit card numbers ....” In fact, this passage does not actually purport to include any substantive teachings relating to “anonymous commerce,” stating that “[v]arious methods for achieving anonymous commerce are known.”

The succeeding two paragraphs of Gabber describe respective embodiments in which “central proxy system ... provide[s] its own valid credit number to the requesting site” and in which the “central proxy system” “generate[s] an alias credit card number and expiration date” that appear to merely serve as an indication that “this number indeed originates from central proxy system 100a,” creating “the understanding [with the requesting site] that it can collect the money from central proxy system 110a.” *See id.* at col. 12, line 57 through col. 13, line 3 and col. 13, lines 4-14. The teachings of these two paragraphs thus appear to be confined to “central proxy system” making a purchase on behalf of a user of the system (either by supplying its own real credit card number or an indication that a requesting site can collect money from the central

proxy system). Given the vagueness of the preceding paragraph discussed above, the two succeeding paragraphs appear to constitute the totality of Gabber's explicit teachings relating to "anonymous commerce."

Previously pending claim 70 distinguishes over Gabber since Gabber does not teach, among other things, "communicating the pseudo credit account identifier and the pseudo expiration date to the financial institution" (emphasis added) as recited in claim 70.

Amended claim 87 recites in pertinent part "the financial institution receiving the pseudo credit account identifier from a second entity through an electronic network in association with a purchase by the first entity of something from the second entity" (emphasis added). This feature is never suggested in Gabber. Gabber teaches that the central proxy may provide substitute identifiers to a web site to protect the anonymity of a user (Abstract, lines 1-6), but never suggests that a "financial institution" "receiv[es] the pseudo credit account identifier from a second entity ... in association with a purchase ... from the second entity". Thus, Claim 87 and its dependents are patentably distinct over the Gabber.

Claim 93 recites in pertinent part that "the privacy server is configured to provide the seller with fictitious payment information in order to facilitate said transaction; wherein the fictitious payment information corresponds to an actual form of payment of the buyer." This feature is never suggested in Gabber. Neither the "valid credit card" of Col. 12, line 66 through Col. 13, line 4, nor the "alias credit card" of Col. 13, lines 5-26, correspond to "an actual form of payment of the buyer" as recited in Claim 93. Thus, neither can be properly identified with the "fictitious payment information" of claim 93. Therefore, claim 93 and its dependents are patentably distinct over Gabber. Claim 133 and its dependents are believed to be patentably distinct over Gabber based on similar reasoning.

Claim 105 recites in pertinent part "wherein the privacy server is configured to retrieve pseudo payment information of the buyer in response to receiving a first identifier from the seller, wherein the first identifier corresponds to the buyer, ... wherein the pseudo payment information corresponds to an actual form of payment of the buyer." This feature is never suggested in Gabber. Neither the "valid credit card" of Col. 12, line 66 through Col. 13, line 4, nor the "alias credit card" of Col. 13, lines 5-26, correspond to "an actual form of payment of the

buyer” as recited in Claim 105. Thus, neither can be properly identified with the “pseudo payment information” of claim 105. Therefore, claim 105 and its dependents are patentably distinct over Gabber. Claim 141 and its dependents are believed to be patentably distinct over Gabber based on similar reasoning.

Claim 123 recites in pertinent part:

“a privacy server configured to facilitate, through a network, a transaction that includes a purchase from a seller for a buyer, ... wherein said transaction is performed such that each of the privacy server, the seller and the one or more additional entities have access to at least one of, but not all of, the following pieces of information: the actual name of the buyer, an account number of an actual form of payment of the buyer, and the identity of the good or service being purchased from the seller.”

This feature is not suggested in Gabber. Gabber’s system does not involve an “additional entity”, i.e., “in addition to the buyer, the seller and the privacy server” (emphasis added), that has access to “at least one of, but not all of, the following pieces of information: the actual name of the buyer, an account number of an actual form of payment of the buyer, and the identity of the good or service being purchased from the seller.” Thus, claim 123 and its dependents are believed to be patentably distinct over Gabber.

Applicant notes that the Examiner rejected the former claims 76 and 79 and the former versions of claims 89 and 92 as being obvious in view of Gabber and in view of Official Notice. In particular, the Examiner stated that:

Official notice is taken that it is well known in the art of e-commerce to set rules to define the use of accounts. Financial institutions allow account for single transaction or limited transaction or for specific use or transaction.

Applicant respectfully traverses this taking of Official Notice. According to MPEP § 2144.03A:

Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known.

The assertions made by the examiner as part of the Official Notice are far from being “capable of instant and unquestionable demonstration as being well-known.”

Furthermore, Examiners are required to provide specific factual findings predicated on sound technical and scientific reasoning to support a conclusion of common knowledge:

Ordinarily, there must be some form of evidence in the record to support an assertion of common knowledge. ... In certain older cases, official notice has been taken of a fact that is asserted to be "common knowledge" without specific reliance on documentary evidence where the fact noticed was readily verifiable, such as when other references of record supported the noticed fact, or where there was nothing of record to contradict it. ... If such notice is taken, the basis for such reasoning must be set forth explicitly. The examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge. See *Soli*, 317 F.2d at 946, 37 USPQ at 801; *Chevenard*, 139 F.2d at 713, 60 USPQ at 241. The applicant should be presented with the explicit basis on which the examiner regards the matter as subject to official notice and be allowed to challenge the assertion in the next reply after the Office action in which the common knowledge statement was made.

*See* MPEP 2144.03B (emphasis added). The Office Action failed to provide any technical or scientific reasoning to support the conclusion of common knowledge. Therefore, the Applicant respectfully requests that the Examiner provide documentary evidence or an Affidavit as to his/her personal knowledge regarding to the Officially Noticed assertions.

## **CONCLUSION**

Applicants submit the application is in condition for allowance, and an early notice to that effect is requested.

Applicant has petitioned herewith for what is believed to be the appropriate extension of time. If any further extensions are necessary to prevent the above-referenced application from becoming abandoned, Applicant hereby petitions for such extension.

The Commissioner is authorized to charge any fees that may be required, or credit any overpayment, to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account No. 501505/6057-37702/MKB.

Respectfully submitted,

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